

EXHIBIT T

1 THE COURT: This is the matter of United States
2 versus Stanley Yacker. I'll take appearances please.

3 MR. LEIBMAN: Good morning, your Honor. Alain
4 Leibman, Assistant United States Attorney, for the
5 government.

6 MR. LUSTBERG: Lawrence S. Lustberg and Timothy
7 Susanna from Gibbons, Del Deo on behalf of defendant Stanley
8 Yacker, and, of course, Mr. Yacker is present.

9 THE COURT: All right. Good morning to all of you.
10 You have certain papers you'd like to hand up to the Court,
11 Mr. Lustberg?

12 MR. LUSTBERG: Your Honor, I'll hand to the Court
13 at this time, I'm handing a waiver of indictment which has
14 been executed in open court today, original plea agreement,
15 original Information, and an original Rule 11 form which has
16 also been executed by both Mr. Yacker and myself in open
17 court here today.

18 THE COURT: Okay. I understand, Mr. Lustberg, that
19 your client wants to retract his prior plea of not guilty
20 and enter a plea of guilty to certain counts of the
21 indictment and to an Information. Is that correct?

22 MR. LUSTBERG: That's correct, your Honor.

23 THE COURT: All right. May I make inquiry of your
24 client?

25 MR. LUSTBERG: You may, Judge.

1 THE COURT: Please swear him.

2 S T A N L E Y Y A C K E R, Sworn

3 EXAMINATION BY THE COURT:

4 Q. All right. Good morning, Mr. Yacker. My name is
5 Judge Wolin.

6 A. Good morning, Judge.

7 Q. We've met before. I'm going to ask you several
8 questions in order to ascertain whether your plea is a
9 knowing and voluntary plea of guilty. If at any time I ask
10 you a question and you don't understand it, ask me to repeat
11 it. I'll be pleased to do so.

12 If at any time you want to confer with your
13 attorney, Mr. Lustberg, before you answer, you certainly may
14 do that as well. Do you understand that?

15 A. Yes, I do. Thank you.

16 THE COURT: Mr. Lustberg, you and Mr. Susanna may
17 be seated unless you choose to stand.

18 MR. LUSTBERG: I'll stand with Mr. Yacker, Judge.

19 THE COURT: All right. That's your pleasure.

20 Q. Mr. Yacker, how old are you, sir?

21 A. 64.

22 Q. All right. And how far did you go in school? Well,
23 you're a lawyer, so, I take it you have probably 23 years of
24 education?

25 A. Thereabouts, yes.

1 Q. Okay. As you stand before me today, are you under the
2 influence of either alcohol or drugs?

3 A. No, sir.

4 Q. Suffering from any physical or any type of emotional
5 condition that would prevent you from discussing this matter
6 with Mr. Lustberg or answering any questions of the Court?

7 A. No, except I'm having a little trouble hearing you.

8 That could be me. I'm not sure.

9 Q. All right. How about now?

10 A. Much better.

11 THE COURT: Do we also have a volume on our system,
12 Gail?

13 THE CLERK: No, we don't.

14 Q. Okay. Have you had an opportunity to read the
15 indictment as well as the Information in this case?

16 A. Yes, I have.

17 Q. And did you understand each of those documents and the
18 counts that you're pleading guilty to?

19 A. Yes.

20 Q. Did you also have an opportunity to discuss them with
21 Mr. Lustberg?

22 A. Yes.

23 Q. All right. And did he explain to you what the
24 government would have to prove if you were to go to trial on
25 either the counts of the indictment or what is contained in

1 the Information?

2 A. Yes.

3 Q. All right. And did you also have the opportunity to
4 discuss with Mr. Lustberg what defenses you could raise if
5 you wanted to contest those counts in both the indictment
6 and the Information?

7 A. Yes.

8 Q. Did he also discuss with you the potential penalties
9 that could be imposed both under the statute as well as
10 under the Sentencing Guidelines?

11 A. Yes.

12 Q. Did he also discuss with you what's known as your
13 constitutional rights and privileges?

14 A. Yes.

15 Q. For example, your right to an attorney?

16 A. Yes.

17 Q. Your right to a trial by jury?

18 A. Yes.

19 Q. Your right to confrontation and cross examination of
20 witnesses?

21 A. Yes.

22 Q. The privilege to remain silent if you chose not to
23 testify, you understand that the government would not be
24 able to comment to the jury that you chose to or elected to
25 remain silent?

1 A. Yes.

2 Q. Okay. Now, knowing that you have all those
3 constitutional rights and privileges, do you wish to
4 relinquish them in order to go forward with your plea here
5 today?

6 A. Yes, I do.

7 Q. Okay. Certain documents have been handed up to the
8 Court that I want to discuss with you. The first document
9 is a waiver of indictment. That certainly pertains to the
10 Information and you understand what is contained in the
11 Information was not submitted to the grand jury, will not be
12 submitted to the grand jury and you're going to proceed by
13 way of Information. Is that correct?

14 A. Yes.

15 Q. And you signed that, it says 1/14. Isn't today 1/15?

16 A. Yes.

17 MR. LUSTBERG: It is. I put the wrong date, Judge.

18 THE COURT: So, can I cross that out, Mr. Lustberg?

19 MR. LUSTBERG: Absolutely, your Honor. I
20 apologize.

21 THE COURT: And write 1/15. That's all right.

22 Q. You signed this today in open court, sir?

23 A. Yes, I did.

24 Q. All right. You read it before you signed it?

25 A. Yes, I did.

1 Q. And you had an opportunity to discuss it with your
2 counsel, Mr. Lustberg?

3 A. Yes.

4 Q. Can I assume that when you affixed your signature,
5 that you did so voluntarily, meaning of your own free will,
6 and knowingly, meaning you understood that which you were
7 doing?

8 A. Yes.

9 Q. All right. Let the record indicate that I, too, have
10 subscribed my signature as the judicial officer assigned to
11 this matter and I'll file it with the Clerk of the Court.

12 MR. LUSTBERG: Your Honor, when you get to the Rule
13 11 form, I would --

14 THE COURT: You have the same problem, Mr.
15 Lustberg?

16 MR. LUSTBERG: I had the same calendar problem then
17 as I had a few minutes earlier with the waiver.

18 THE COURT: There's an old saying, being a day late
19 and a dollar short. I hope that's not you.

20 MR. LEIBMAN: No. I can assure you I wasn't trying
21 to preserve some obscure legal issue.

22 Q. Mr. Yacker, the next document that I have in front of
23 me is an application for permission to enter a plea of
24 guilty. It's a several page document and --

25 THE COURT: And, once again, I'm going to change

1 the date, Mr. Lustberg.

2 MR. LUSTBERG: On the last two pages, Judge.

3 Q. On page seven, where your signature purportedly
4 appears, is that your signature on page seven, Mr. Yacker?

5 A. Yes, it is.

6 Q. All right. And before you signed this document, did
7 you have the opportunity to read it?

8 A. Yes.

9 Q. Did you understand it?

10 A. Yes.

11 Q. In the event you had any questions, did you pose those
12 questions to Mr. Lustberg and did he answer any of your
13 questions to your satisfaction?

14 A. Yes and yes.

15 Q. Okay. There's a couple that I would like to go over,
16 if I may. I'd like to go over to entry number eight and it
17 says "I've received a copy of the superseding indictment and
18 the Information. I've read them", and it says you
19 understand the charge to be committed wire fraud and
20 conspiracy to commit wire fraud. Is that correct?

21 A. Yes.

22 Q. Going over to entry number 24, it indicates that you
23 face by way of statute a maximum of 55 years imprisonment on
24 the superseding indictment and Information and a maximum
25 fine equal to the greatest of \$2,750,000 or twice the gross

1 amount of any pecuniary gain that any persons derived from
2 the offenses or twice the gross amount of any pecuniary loss
3 sustained by any victims of the offenses. Is that correct?

4 A. Yes.

5 Q. You understand that you'll be assessed \$100 for each
6 felony, and I believe I saw something there were 11, and
7 it's going to be about an \$1100 assessment?

8 A. Yes.

9 Q. Is that correct?

10 MR. LUSTBERG: Yes.

11 A. Yes, Judge.

12 Q. Going over to number 37, it indicates that there is a
13 plea agreement, and it says in exchange for your plea of
14 guilty to counts one to ten of the superseding indictment
15 and the one count Information, the government will not
16 initiate any further criminal charges and in exchange for
17 your cooperation the government will move for a sentencing
18 guideline departure pursuant to 5K1.1. Is that your
19 understanding of the plea agreement?

20 A. Yes.

21 Q. Once again, when you signed this document, did you do
22 so voluntarily and knowingly as I've defined those terms for
23 you?

24 A. Yes, I did.

25 Q. I have in front of me a plea agreement which I am

1 seeing for the first time, so, I'm going to ask you certain
2 questions about it. Going over to page seven of that
3 agreement, there's a signature that purports to be your
4 signature under date of January 11 of this year. Is that,
5 in fact, your signature?

6 A. Yes.

7 Q. And did you sign it on that date?

8 A. Yes.

9 Q. All right. And going back to the face page of the
10 document, it's dated January 9 of this year, and it's on the
11 stationery of the United States Attorney for the District of
12 New Jersey. On page one in the first paragraph it indicates
13 the charges that are pending against you. Have you had an
14 opportunity to read that?

15 A. Yes.

16 Q. And the government says to you in that paragraph what
17 you're pleading guilty to and says that the scope of the
18 protection that they've offered you in that paragraph is
19 limited to the criminal activity that you've revealed to the
20 United States Attorney as of the date of this agreement,
21 which would be January 11. Correct?

22 A. Yes.

23 Q. You understand that?

24 A. Yes.

25 Q. And they say that if the judgment of conviction was

1 set aside for any reason, they could bring any charges
2 against you that are not time barred by any Statute of
3 Limitations as of the date of agreement, which would be
4 January 11, notwithstanding the expiration of the statute as
5 of that date. Correct?

6 A. Yes.

7 Q. And it says that you agree to waive any statute of
8 limitations with respect to any crime that otherwise would
9 expire after you signed the agreement. True?

10 A. Yes.

11 Q. The next paragraph speaks of your cooperation and it
12 speaks about the type of cooperation that you may be called
13 upon to provide. Correct?

14 A. Yes.

15 Q. And the government has indicated in the plea agreement
16 in the second paragraph when it speaks of substantial
17 assistance, says to you that whether you render substantial
18 assistance is something for the United States Attorney to
19 determine. You don't determine it. I don't determine it.
20 Mr. Lustberg doesn't determine it. You understand that?

21 A. Yes, I do.

22 Q. And the purport of that paragraph is that if you do
23 render substantial assistance, at the time of sentence the
24 government will move before this Court for a downward
25 departure based upon that substantial assistance. Correct?

1 A. Yes.

2 Q. Going over to page three, the first full paragraph on
3 that page speaks about that if you should withdraw from this
4 agreement, it sets forth the various means by which you
5 could withdraw from the agreement. The government says it
6 will then no longer be bound to file a motion pursuant to
7 SK1.1 but you will not be able to withdraw from your guilty
8 plea here today. Correct?

9 A. Yes.

10 Q. And further, that they could prosecute you based upon
11 information you gave them for perjury, false swearing,
12 obstruction of justice, no statute of limitations would
13 apply and they can use any statements made against you. You
14 would not be able to suppress them. Correct?

15 A. Yes.

16 Q. You understand that you're going to be sentenced under
17 the Sentencing Guidelines?

18 A. Yes.

19 Q. Okay. And you've already gone over what the statutory
20 exposure is, and I'll talk to you about the Sentencing
21 Guidelines shortly. And it indicates that over on page four
22 in the last full paragraph, that you agree to make full
23 restitution for all losses resulting from the offenses of
24 conviction or from the matters that are charged against you.
25 Correct?

1 A. One moment, your Honor.

2 Q. Sure. I'm on the last paragraph on page four. And it
3 lists the names of certain purchasers there who are in count
4 one of the superseding indictment. Is that correct?

5 A. Yes.

6 Q. Okay. The United States Attorney reserves the right,
7 going over to page five, to take a position with respect to
8 the appropriate sentence to be imposed upon you at the time
9 of sentence. Do you understand that?

10 A. Yes.

11 Q. You and the United States Attorney have entered into
12 certain stipulations and you understand that this Court is
13 not bound by those stipulations. Generally, I'm
14 hard-pressed not to agree with them but there have been
15 times when, but most times the Court does go along with the
16 stipulations that have been entered into. Anything that you
17 have not stipulated to, you understand is reserved that you
18 can argue at the time of sentence, and if the United States
19 Attorney was to receive additional evidence that it found to
20 be credible and was materially in conflict with any
21 stipulation, then they say they won't be bound by the
22 stipulation, but all other stipulations shall remain in full
23 force and effect and, once again, you will not be able to
24 withdraw your plea of guilty. Do you understand that?

25 A. Yes.

1 Q. On five, at the bottom of page five it talks about
2 waiver of appeal and post sentencing rights. Have you had
3 an opportunity to discuss that provision with Mr. Lustberg?

4 A. Yes.

5 Q. And do you understand it?

6 A. Yes.

7 Q. Under other provisions it says this agreement is
8 limited to the United States Attorney's Office for the
9 District of New Jersey and cannot bind any other prosecuting
10 authority. Correct?

11 A. Yes.

12 Q. Also, this plea was reached without regard to any
13 civil or administrative matters that could be brought
14 against you by the United States government or any other
15 agency such as the State of New Jersey agency or the Supreme
16 Court of New Jersey in charge of attorney discipline.

17 Correct?

18 A. Yes.

19 Q. All right. And lastly, it says this agreement
20 constitutes the full and complete agreement between you and
21 the United States Attorney and supersedes any previous
22 agreements between you, it's in writing and you understand
23 it can only be modified in writing. Is that correct?

24 A. Yes.

25 Q. Okay. Anybody make you any promises that are not

1 contained in this agreement?

2 A. No.

3 Q. Anybody attempt to intimidate you, exercise any type
4 of duress upon you to enter into this agreement?

5 A. No.

6 Q. Are you satisfied with the services of your counsel,
7 Mr. Lustberg?

8 A. Yes.

9 Q. Can I once again infer that when you signed this
10 agreement, you did so voluntarily and knowingly as I've
11 defined those terms?

12 A. Yes.

13 THE COURT: You know, Mr. Lustberg, we have a
14 procedural problem that I'd just like to have you assist me
15 with.

16 MR. LUSTBERG: Okay.

17 THE COURT: Was Mr. Yacker ever arraigned on the
18 superseding indictment?

19 MR. LUSTBERG: Yes.

20 THE COURT: He was? We did that?

21 MR. LUSTBERG: Actually --

22 MR. LEIBMAN: No. We were going to do it at the
23 time of trial, your Honor. That's true.

24 MR. LUSTBERG: I forgot. That's right. We decided
25 not to do that.

1 THE COURT: Would you like to interject?

2 MR. LUSTBERG: Yes, your Honor. I had forgotten
3 that there was a superseding indictment, although we
4 consistently made reference to it in these papers. We
5 received a copy of that indictment. We would waive any
6 reading of it. As of today, of course, Mr. Yacker is
7 entering a plea of guilty to all counts of the superseding
8 indictment.

9 THE COURT: Well, first I'll enter a not guilty
10 plea for him. Then I'll, how do you say it --

11 MR. LUSTBERG: Retract.

12 THE COURT: I'll go fast forward.

13 THE DEFENDANT: May I have a moment, your Honor?

14 THE COURT: Sure.

15 (There is a discussion off the record.)

16 THE DEFENDANT: Thank you, your Honor.

17 Q. Well, Mr. Yacker, I think we have solved any
18 procedural error that may exist. I take it that you would
19 waive any --

20 A. Yes.

21 Q. -- claim of error?

22 A. Yes, your Honor.

23 Q. Okay. Thank you. I want to talk about the Sentencing
24 Guidelines for a moment. You understand that -- excuse me.
25 One other thing I did want to discuss with you. We spoke

1 about stipulations. Do you remember when talking about your
2 plea agreement and attached to your plea agreement is a
3 schedule and it indicates that the guideline applicable to
4 each of the above counts is United States Sentencing
5 Guideline 2F1.1 and paragraph two indicates that all the
6 counts in the superseding indictment and the Information are
7 grouped together into a single group and they're going to be
8 determined largely on the basis of the total amount of loss,
9 the total amount of loss is not less than five million and
10 not more than 20 million, the offenses involve more than
11 minimal planning; also, stipulated that you abused the
12 position of private trust and used the special skill in a
13 manner that significantly facilitated the commission of the
14 relevant criminal activity. You've in paragraph six
15 accepted responsibility and you've timely notified
16 authorities for acceptance of responsibility and timely
17 notifying authorities, you'll be given a three point
18 departure in your sentence.

19 THE COURT: Do you know, Mr. Lustberg, what level
20 of offense he's going to be?

21 MR. LUSTBERG: We really don't, Judge. If you look
22 at paragraph three of the stipulations --

23 THE COURT: I saw it.

24 MR. LUSTBERG: -- there's a range in there and
25 depending on where the Court ends up within that range --

1 THE COURT: Well --

2 MR. LUSTBERG: There's a --

3 THE COURT: Just for purposes of this proceeding
4 here today, 2F1 would be a base offense level of six and if
5 he were more than five million, would be 14 and more than 20
6 million would be 16, so --

7 MR. LUSTBERG: No, no, it can't be more than 20
8 million, so, it's either 14 or 15.

9 THE COURT: Okay. He'd be a 14 or 15, so, figure
10 15 to six would be 21, and minimal planning would be 23, two
11 for that would be 23, and position of private trust --

12 MR. LUSTBERG: Two more.

13 THE COURT: So that would be a maximum of 25, minus
14 three would be 22, so, the maximum he could be is a level
15 22. Is that correct?

16 MR. LUSTBERG: That's right.

17 THE COURT: With a criminal history category of
18 one.

19 MR. LUSTBERG: Correct.

20 THE COURT: With an exposure of 41 to 51 months.
21 Is that correct?

22 MR. LUSTBERG: That's correct.

23 Q. You understand that, Mr. Yacker?

24 A. Yes.

25 Q. And the last two pages or the last two paragraphs of

1 the plea agreement speak about waiving your right to file an
2 appeal or any collateral attack if you are sentenced within
3 the guideline level that we've all been speaking of.

4 All right. Going over to the Sentencing
5 Guidelines, you understand that the sentencing -- first of
6 all, have you had an opportunity to discuss the Sentencing
7 Guidelines with Mr. Lustberg?

8 A. Yes, I have.

9 Q. Did he explain the structure of the Sentencing
10 Guidelines to you? We look at your conduct in relation to
11 the type of offense that occurred.

12 A. Yes.

13 Q. Okay. And once again, your criminal history is an
14 important factor in the application of the Sentencing
15 Guidelines. And you indicate that you have no criminal
16 history. Correct?

17 A. That is correct.

18 Q. All right. After today I'm going to order a
19 presentence report. I know nothing about your background, I
20 know nothing about your employment history, social,
21 education, and after that presentence report is received,
22 both you and Mr. Lustberg will have an opportunity to move
23 the Court if you think something is factually incorrect.
24 It's my responsibility prior to sentencing to hold a hearing
25 and to make factual determinations and I will do that.

1 Now, we all think today that you are at the level
2 that we just discussed. I don't know what the probation
3 department is going to come back with. Generally they're
4 very close to what we have discussed here today. I don't
5 know whether the increase will be 14 or 15 as Mr. Lustberg
6 indicated, but I want you to understand you'll not be able
7 to withdraw your plea on the ground that anyone's prediction
8 as to the guideline range proved to be inaccurate. Do you
9 understand that?

10 A. Yes.

11 Q. Also, at the time of sentence, the Court will follow
12 the sentencing procedures set forth in the guidelines. I
13 want you to understand that the guidelines may require you
14 to serve a period of time of imprisonment as well as a fine
15 or both. Do you understand?

16 A. Yes.

17 Q. And if you are imprisoned, you will not be paroled at
18 any time prior to the completion of your sentence which is
19 actually imposed upon you except for good time credits
20 earned, if any. Do you understand that?

21 A. Yes.

22 Q. Also, if you are imprisoned, I will impose a term of
23 supervised release and if you're to violate the terms and
24 conditions of your supervised release, and if I were to find
25 that did occur by a preponderance of the credible evidence,

1 you could be returned to prison. Do you understand?

2 A. Yes.

3 Q. Okay. Both you and the government have the right to
4 appeal any sentence that is imposed upon you subject to the
5 provisions in your plea agreement. Okay?

6 A. Yes.

7 Q. I now want to ask you certain questions in order to
8 establish a factual basis for the acceptance of your plea
9 and I want to know if you've had an opportunity to review a
10 memorandum that was forwarded to me by Mr. Leibman on or
11 about January 14th of this year. A copy was likewise
12 forwarded to your counsel, Mr. Lustberg. Have you had an
13 opportunity to see that?

14 A. Yes, I have.

15 Q. All right. Before I go to the specific factual
16 questions, it indicates that you're being charged with a
17 violation of Section 371 of Title 18 of the United States
18 Code as well as Section 1343 dealing with wire fraud, and
19 have you had an opportunity to look over the elements of
20 those offenses and do you accept them as being the elements
21 that the government must prove in order to find you guilty
22 of these offenses?

23 A. Yes.

24 Q. Okay. And, once again, you've had an opportunity to
25 look at the questions for the factual basis for your plea?

1 A. Yes.

2 Q. All right. Am I correct, sir, that at least since
3 prior to 1995, and continuing through 1997 and beyond, you
4 were an attorney at law of the state of New Jersey subject
5 to the ethics rules concerning attorneys?

6 A. Yes.

7 Q. And among other obligations, did those ethics rules
8 require you to represent clients with reasonable diligence?

9 MR. LUSTBERG: Judge, the way we had worked this
10 allocution out, if it's okay with the Court, if you could go
11 through the entire list that's there, then he'll answer do
12 we want to answer --

13 A. Okay to number two.

14 MR. LUSTBERG: -- yes, and that would be likewise
15 the case when we get to number five.

16 THE COURT: Okay. Among other obligations, did
17 those ethics rules require you to represent clients with
18 reasonable diligence, to sufficiently explain the matter to
19 permit the client to make informed decisions, to consult
20 with their client concerning the means of achieving the
21 objective of the representation, should probably be "your
22 client" rather than "their client".

23 MR. LUSTBERG: Yes.

24 THE COURT: To disclose in writing the basis or
25 rate of legal fees within a reasonable time after commencing

1 the representation, to avoid conflicts between the interests
2 of one client and the interests of another client, a third
3 person, or your own interest, and to forebear from knowingly
4 making a false statement of material fact or law to a third
5 person and from engaging in conduct involving dishonesty,
6 fraud, deceit or misrepresentation?

7 A. Yes.

8 Q. Okay. And did you act with Irene DiFeo and Donna
9 Pepsny, among others, to engage in a scheme to defraud and
10 to obtain money and property by means of false and
11 fraudulent pretenses, representations and promises involving
12 persons whom you represented in connection with their
13 purchases of homes in 1995 and 1996?

14 A. Yes.

15 Q. And in doing so, did you also violate the ethics rules
16 concerning attorneys?

17 A. Yes.

18 Q. With respect to the transactions described in counts
19 two through ten of the indictment, did you commit at least
20 one or more of the following fraudulent acts with respect to
21 each: A, cause purchasers to sign critical closing
22 documents in blank; B, misrepresent the nature and interest
23 rate of the mortgage loan for which the purchaser had
24 qualified, by failing to adequately explain the nature and
25 consequences of the balloon first mortgage and the fact that

1 tax payments were not included in the first mortgage
2 payment, and the amount of the resulting monthly payment; C,
3 fail to disclose prior problems and unperformed repairs
4 involving the same seller; D, fail to disclose to purchasers
5 that as a result of the purchaser's minimal down payment and
6 the fraudulent increase of the purchase price, the seller
7 would require the purchaser to execute at closing and become
8 responsible for an additional second mortgage loan, thereby
9 increasing the purchaser's monthly mortgage obligations; E,
10 conceal the fact that some purchasers received funds out of
11 closing to make repairs, by issuing checks to the purchasers
12 in the names of other persons or entities; F, cause the
13 falsification of numerous documents related to the
14 transaction, including HUD-1/RESPA settlement statements
15 which disguised the true nature and details of the
16 transaction; G, fail to advise your purchaser-clients to
17 abandon the closing when it was in their best interest to do
18 so and, in fact, encourage or pressure them to complete the
19 closing under those circumstances, even after acknowledging
20 in at least one instance that the purchasers' signatures on
21 a contract of sale had apparently been forged or falsified;
22 H, in one instance create a fictitious sale of a property to
23 a purchaser's relative who would then convey the property to
24 the actual purchaser, in order to justify a false increase
25 in the final purchase price of the home and to inflate the

1 amount of the mortgage loan available for the transaction;
2 I, create the false appearance in the mortgage loan file
3 that debts of the purchasers were paid off as part of the
4 closing as required by a lender by photocopying checks
5 written by the purchasers which you returned to them; J,
6 fail to promptly provide purchasers with copies of documents
7 related to their closing; and K, fail to record deeds to
8 establish and protect the purchasers' interest in their
9 properties?

10 A. Yes.

11 Q. Okay. In regard to the Information, in 1996 and '97,
12 did Gary Grieser and others solicit and locate persons
13 willing to act as straw buyers in numerous transactions
14 whereby mortgage loans would be obtained and the properties
15 acquired in the names of the straw buyers, even though those
16 persons actually had no interest in obtaining such loans or
17 purchasing such properties?

18 A. Yes.

19 Q. After the closing on those properties, did each straw
20 buyer convey 60 percent interest in the given property to
21 Grieser's entity, Capital Assets, in a joint venture
22 arrangement which left the straw buyer holding a 40 percent
23 interest as co-owner with Capital Assets?

24 A. Yes.

25 Q. Did you, with the assistance of Lorraine King, your

1 legal secretary, prepare the joint venture agreement used in
2 those transactions?

3 A. Yes.

4 Q. Did you know that each of the straw buyers was being
5 paid for the use of their names and credit histories in
6 obtaining the subject mortgage loans and in acquiring the
7 subject properties?

8 A. Yes.

9 Q. Did you commit the following fraudulent acts to
10 further the straw buyers' scheme; A, issue and cause to be
11 issued false letters regarding nonexistent deposits of funds
12 by purchasers or borrowers which funds you claimed to be
13 holding in escrow?

14 A. Yes.

15 Q. B -- I'll do them all as we did answer five, B, close
16 title on the resale portion of flip transactions, knowing
17 that the original purchase of the property had not yet
18 closed; and C, sign and cause straw buyers to sign false and
19 fraudulent closing documents, including HUD-1/RESPA
20 settlement statements which did not truthfully describe
21 receipts and disbursement of funds and affidavits which
22 falsely asserted that the straw buyer would be residing in
23 the subject property?

24 A. Yes.

25 Q. 11, did you do all these things, it says knowingly and

1 willfully, I'm going to add voluntarily as well,
2 voluntarily, meaning of your own free will, and knowingly,
3 meaning you understood that what you were doing, and
4 willfully, meaning with the intent to bring about the act
5 that did in fact occur?

6 A. Yes.

7 Q. Have you provided other details and information to law
8 enforcement officials which you have not been asked about
9 today?

10 A. Yes.

11 THE COURT: I understand, Mr. Leibman, that the
12 United States is prepared to prove at trial that the funds
13 for the closings addressed by Mr. Yacker were transmitted by
14 wire transfer from outside New Jersey to a bank account of
15 Stanley Yacker in New Jersey. Is that correct?

16 MR. LEIBMAN: That's correct, your Honor.

17 THE COURT: Mr. Lustberg, in the discovery that you
18 have had the opportunity to review, you also agree that the
19 United States could prove at trial that the funds for the
20 closings that were addressed by Mr. Yacker were, in fact,
21 transmitted by wire transfer from outside New Jersey to a
22 bank account of Mr. Yacker in New Jersey?

23 MR. LUSTBERG: Yes, your Honor.

24 THE COURT: Are there any other questions that the
25 government would like the Court to pose in order to fulfill

1 the obligation to assert a factual basis?

2 MR. LEIBMAN: No, your Honor. We believe the Court
3 has established a sufficient factual basis.

4 Q. All right. Mr. Yacker, why are you entering your plea
5 of guilty here today?

6 A. Because I am guilty and I am interested in cooperating
7 to the extent that I can.

8 THE COURT: All right. Mr. Lustberg, are you
9 satisfied that this plea is entirely voluntary and that it's
10 being entered by the defendant with full knowledge of all of
11 his rights and all of his responsibilities?

12 MR. LUSTBERG: Yes, your Honor.

13 THE COURT: The Court would like to make the
14 following findings of fact. I find that Mr. Yacker is
15 competent to enter his plea, that he's possessed of adequate
16 counsel and the charges set forth, both the counts of the
17 superseding indictment and the Information are both
18 adequately and adequately stated.

19 I'm satisfied that Mr. Yacker understands the
20 elements of the offenses to which he has pleaded guilty and
21 that his pleas to those offenses and counts and Information
22 are voluntary. I've discussed his plea with him, as well as
23 the plea agreement. I'm satisfied that he understands both
24 as well as his constitutional rights which he's waived in a
25 knowing and voluntary manner.

1 I'm satisfied that he understands the penalties
2 that could be imposed both under the statute as well as
3 under the Sentencing Guidelines. Lastly, I'm satisfied that
4 there is a factual basis for the entry of the plea and I
5 make that finding by the standard of evidence beyond a
6 reasonable doubt.

7 I'll direct that the plea be entered. I'll
8 adjudicate him guilty of the offenses set forth in his
9 superseding indictment as well as the Information and I'll
10 direct that a presentence report be prepared. I need a date
11 of sentence.

12 THE CLERK: May 14.

13 MR. LEIBMAN: Your Honor, the government would
14 anticipate that Mr. Yacker may be testifying in future
15 proceedings, the Pepsny-DiFeo trial, for example, or future
16 Gary Grieser proceedings. If it is acceptable to the Court,
17 I would ask that we not hold to a firm and fast sentencing
18 date at this point.

19 THE COURT: At this point it's an artificial date.
20 Mr. Leibman, have we scheduled the Pepsny and DiFeo trial?

21 MR. LEIBMAN: Not pending this proceeding yet, your
22 Honor. I had some brief discussion with your clerk about
23 potential dates.

24 THE CLERK: I set it down for April 16.

25 MR. LEIBMAN: Very good, your Honor. I'll inform

1 defense counsel for the other defendants.

2 THE COURT: All right. That will be fine. All
3 right. Is there anything else for the Court to be concerned
4 with today?

5 THE DEFENDANT: One moment, Judge.

6 THE COURT: Sure.

7 THE DEFENDANT: Thank you, your Honor.

8 THE COURT: All right. Mr. Leibman, although the
9 sentence date may be artificial because of other matters, is
10 there any reason why probation cannot start on the
11 presentence report?

12 MR. LEIBMAN: There's no reason they can't start,
13 your Honor. One area that's often problematic is when they
14 ask for the defendant's version of the offense, we often
15 find that defendants awaiting trial try to retain that as
16 potential impeachment material.

17 THE COURT: I think what I'll instruct the
18 probation department is to do all segments of the
19 presentence report except for defendant's understanding of
20 the offense.

21 MR. LEIBMAN: Thank you, your Honor.

22 THE COURT: All right. Is there anything else, Mr.
23 Lustberg?

24 MR. LUSTBERG: No, Judge. Thank you.

25 THE COURT: All right. I thank you and Mr. Yacker

1 for your cooperation.

2 THE DEFENDANT: Thank you, Judge.

3 THE COURT: I take it there's no release problem.

4 MR. LEIBMAN: No, there's not, your Honor. Bail is
5 already established. It's a personal recog bond. That's
6 fine.

7 THE COURT: All right. Court will be in recess.

8 (Whereupon, the proceedings are adjourned.)

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IN THE UNITED STATES DISTRICT COURT
THE DISTRICT OF NEW JERSEY
Criminal No. 01-47
Criminal No. 02-25

UNITED STATES OF AMERICA

v. Sentencing Transcript of Proceedings

STANLEY YACKER,
DEFENDANT.

Newark, New Jersey
June 15, 2003

B E F O R E: HONORABLE ALFRED WOLIN,
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

ALAIN LEIBMAN, AUSA
For the Government.

LAWRENCE S. LUSTBERG, ESQ.
AND: TIMOTHY S. SUSANIN, ESQ.
For the Defendant.

Pursuant to Section 753 Title 28 United States Code, the following transcript is certified to be an accurate record as taken stenographically in the above-entitled proceedings.

Lynne Johnson
LYNNE JOHNSON
Official Court Reporter

LYNNE JOHNSON, CSR, CM
Official U.S. District Court Reporter
P.O. Box 6822
Lawrenceville, New Jersey 08648
973-645-2513

1 THE COURT: Good morning. I will take
2 appearances, please.

3 MR. LEIBMAN: Alain Leibman, Assistant United
4 States Attorney for the government.

5 MR. LUSTBERG: Good morning. Lawrence S. Lustberg
6 and Timothy Susanin from Gibbons, DelDeo on behalf of
7 defendant Stanley Yacker.

8 THE COURT: Be seated. Mr. Lustberg, I acknowledge
9 receipt from you, a sentencing memorandum, about an inch and
10 a half thick.

11 I have had an opportunity to read it more than once
12 and many of the letters that were appended to it, letters
13 from many people that I have interacted with during my
14 career, particularly Chief Justice Wilentz.

15 With nothing more said, I will hear from you, sir.
16 Your client is -- is he a 21 with a one to start?

17 MR. LUSTBERG: That's correct, Judge. He, his
18 guideline range is 37 to 46 months prior.

19 THE COURT: Do you have any concerns about
20 guideline that you want to bring to my attention that I have
21 to resolve?

22 MR. LUSTBERG: No, your Honor. Because this was a
23 plea, all of the guidelines were subject of stipulations. We
24 had certain substantive but not guidelines related objections
25 to the presentence report, each and every one of those was in

1 fact incorporated into the final version of the presentence
2 report so there are no issues with respect to the presentence
3 report either way, and no objections at all to the guidelines
4 calculations set forth in that report.

5 THE COURT: And then I will hear from you on
6 sentence.

7 MR. LUSTBERG: Thank you, Judge.

8 As the Court is aware, there is a motion for a
9 downward departure that has been filed by the government, and
10 that provides the Court with discretion.

11 This is a case, most respectfully, in which the
12 sentencing is a difficult one.

13 On the one hand, the offense here is admittedly a
14 serious one, made more so because even though Mr. Yacker
15 profited so little from it financially, it was motivated by a
16 financial desperation and engendered a really horrific breach
17 of professional responsibility which he will forever have to
18 come to terms with.

19 On the other hand, all of that must be weighed
20 against two factors. The first is the matter in which he
21 reacted to the offense which the government has correctly
22 characterized as cooperating substantially with the
23 government's prosecution, including attending numerous
24 proffer sessions, attempting even prior to that, to craft a
25 plea agreement that would have been a global one and would

1 have avoided the necessity for trial all together, but when
2 that didn't work out, testifying on the Court's behalf at
3 trial and of course, I am aware there is some legitimate
4 criticisms of the way that testimony went, particularly on
5 cross examination. I think the excerpts that we provided to
6 the Court from that trial demonstrated that Mr. Yacker's
7 testimony was substantively accurate, and did persuade the
8 jury and at least in part and as a result there were
9 convictions.

10 THE COURT: I guess the bottom line is, as the
11 government indicates in the sentencing, in its sentencing
12 memorandum in support of the 5 (k) application, Mr. Yacker's
13 testimony was accepted by the jury and as you indicate was
14 persuasive to them and convictions were obtained.

15 MR. LUSTBERG: When you analyze it, it goes down
16 point by point and admits to each of the breaches here,
17 false, forged signatures, false closing statements, each of
18 those matters was addressed by Mr. Yacker and fully admitted,
19 both at his plea, and ultimately on the stand as well. So
20 the government's motion, of course we join in and we believe
21 is correct, and it ought to be granted, not only because of
22 course the Court wants to reward and incentivize (sic) people
23 for bringing that type of assistance to the government, but
24 also because in this case it demonstrates that what Mr.
25 Yacker was really trying to do was to undue, to the extent he

1 could, the effects of his misconduct which he so candidly
2 admitted at the time of his plea.

3 In addition, all of his misdeeds have to be weighed
4 against his entire life. The Supreme Court has made clear
5 that at sentencing, even under the guidelines regime, it is
6 the Court's duty to weigh the individual offender, and who he
7 is and why he did what he did, and to try to understand the
8 whole person.

9 Here, one can only wonder at the acts that Mr.
10 Yacker committed because they were so out of character for
11 what he, the way he behaved for his entire lengthy career, as
12 an attorney. That career was characterized by not only
13 highly competent service to his clients, but really almost
14 uniquely caring.

15 When you read the letters from clients, not high-
16 faluting people, not important citizens, certainly, not the
17 chief justice of the New Jersey Supreme Court, but just
18 people he served day in and day out, they characterize what
19 he did as above and beyond lawyering and moving over to the
20 area of genuine caring and compassionate friendship.

21 I believe that, having come to know Stanley Yacker,
22 your Honor, because Stanley Yacker is, to use a word that my
23 grandmother would use under these circumstances, is just a
24 mench, he is a guy who means what he says, he is genuine, he
25 is sincere, he is a good man, and his goodness just stands in

1 stark contrast to the acts that made up this case. That
2 isn't, the goodness doesn't explain those acts; it doesn't
3 excuse those acts, but it just puts them in a context which
4 they deserve to be put in, and when the Court passes sentence
5 because of course you are passing sentence not only on the
6 offense but on the offender as well. Mr. Yacker's career in
7 addition to his service to client's was characterized by his
8 generous devotion of time to the bench and the bar, and
9 particularly as a bar examiner in which he spent countless
10 months and hours working on, and that led over to a process
11 where he would really teach and mentor younger members of
12 this profession, people who would become lawyers, and give of
13 himself in that way as well.

14 And the letters that we provided to the Court are
15 not only people in retrospect saying now we know this man is
16 being sentenced but the contemporaneous ones, at a time when
17 this prosecution was not within the realm of anyone's
18 conception. They showed the genuineness of how people felt
19 toward Mr. Yacker and the kind of truly giving of himself
20 that we see in his background.

21 All of them reflect the reality of this man,
22 Stanley Yacker. In some ways, you know, he was really a
23 giant in the legal profession, someone who people looked up
24 to. And in others, he was just a humble, and is, a humble,
25 everyday, small-town lawyer, a really fine, gentle soul, a

1 person who has never acted self importantly, but rather,
2 always, at least with me and I think you see it in the
3 letters, self deprecating and genuine. And more than
4 anything, perhaps the tragedy of this case is that this was a
5 man who loved and respected the profession of the law. He
6 truly did. You know, to this day, he is enthusiastic about
7 legal issues, wanting to talk about them and think about them
8 and combine the intellectuality of the law with the everyday
9 practice of it in a way that really few of us do at times.

10 And it is so sad that as a result of this he will
11 forever be barred from that practice, and so really whatever
12 the Court does today, in a lot of ways, is really adding on
13 to the worst punishment that he ever could have received and
14 that he received already, which is he is no longer a
15 practicing attorney.

16 Today Stanley Yacker is left without a means of
17 really supporting himself although he has been attempting to
18 work. He obviously stands here in poor health, having had a
19 quadruple bypass operation just last year. He is disgraced
20 in the eyes of his clients and the profession that he loved
21 so much, and now, of course, he stands to lose his liberty.
22 Obviously, he recognizes, and I do as well, that he must be
23 punished for what he did.

24 We would ask that all of this be considered when
25 your Honor crafts that punishment and that the Court do

1 justice that tempers justice with mercy.

2 Thank you.

3 THE COURT: All right. Mr. Yacker, I will hear
4 from you, sir.

5 THE DEFENDANT: I will be very brief, your Honor.
6 I am a little bit nervous. I truly regret having disgraced
7 so many people. I start with my family because they are
8 important to me. I have disgraced them. I have disgraced
9 the public. I have disgraced the profession which is, as
10 Larry said, something that, and I wouldn't put it in the past
11 sense, something that I love and continue to love, even
12 though I do greatly miss the ability to practice it as I
13 always had for so long.

14 I particularly feel sorry for the clients because
15 clients did and know that I can't put in the present tense, I
16 don't have clients presently, but they did always mean a lot
17 to me. I just can't explain other than what I have already
18 said to your Honor in court, you know, how all this came
19 about, only that it is an aberration. It was fueled by
20 insecurity and uncertainty, and I am sure, although it is
21 hard to realize it at the time, that an element of greed
22 enters into it.

23 But what Larry said also is true. I profited so
24 little, I think one of the defense attorneys even said that
25 the fees that I charged were very modest even in their day,

1 so it wasn't that so much. You tend to lose some of your
2 ability to reason, rationalizations take over when, I don't
3 know, it just all seems so easy at the time, and when the
4 lender is actually instead of, you know, policing a closing,
5 is actually in some ways part of it, it is almost like a bad
6 Henny Youngman joke, you know, "Take my money, please." It
7 is not an excuse, but I just want your Honor to know what
8 possibly caused me at the time to lose my ability to reason,
9 and to transgress the way that I have.

10 I am well aware that these constitute crimes
11 against the United States, against the clients that I served,
12 and I just want your Honor to be aware of that.

13 Thank you.

14 THE COURT: All right. Thank you very kindly.

15 Mr. Leibman, I will hear from you on the motion, if
16 you choose. Your memo is very explicit as to the motion
17 itself. I am going to let, whatever other comments you have
18 to present to the Court.

19 MR. LEIBMAN: Your Honor, I will rely on the
20 memorandum which I know the Court has carefully read and ask
21 the Court to grant that motion.

22 I have no other substantive comments to make unless
23 the Court has questions. I did want to make the Court aware
24 as I made counsel aware this morning that one of the victims
25 in the case, Mr. Joseph Donald, is present in court and asked

1 that I pass on his request to the Court, that he be permitted
2 to address some remarks to the Court.

3 I did explain to Mr. Donald that his written victim
4 impact statement was already before the Court. I know the
5 Court has read it from a prior proceeding in this series of
6 cases. But I am duty-bound to pass on that request to your
7 Honor.

8 THE COURT: Where is Mr. Donald? Mr. Donald, if
9 you would like to step up to the podium, you may. I will
10 hear from you briefly, sir.

11 Right up front.

12 MR. DONALD: I thank you for taking the time to
13 hear my remarks. It will take the Court perhaps three
14 minutes to hear what I have to say. I have written remarks
15 to keep them succinct. They read as follows:

16 As a Christian, one of the crucial and fundamental
17 aspects of my fight deals with forgiveness. My religion
18 would be nothing if indeed there is no forgiveness. And
19 unforgiving Christians is as much an oxymoron as is this
20 particular Christian to a round scare.

21 To this end, while it hasn't been I am compelled to
22 forgive Mr. Yacker for the hurts and complications that he is
23 responsible for creating in my life. However, the crucial
24 point for me was to resolve the distinction between the
25 spiritual and the civil, between the sin and the crime, which

1 are not always the same thing. While the Christian is to
2 forgive all things, that doesn't necessarily mean that all
3 things do not come with legal consequences. They do.

4 As a consequence, while I forgive, at the same time
5 I respect the rights and needs for civil law and punishment.
6 Since Mr. Yacker's total disregard and contempt for my
7 family's safety, I have never received an apology from him or
8 any acknowledgement that he expressed remorse through his
9 actions. His obfuscation of truth and integrity has
10 permitted greed to foreshadow his obligation to provide the
11 requisite contractual, professional legal services to my wife
12 and me.

13 As his clients, both my wife and I had our lives
14 completely rearranged in a very negative way. This is a
15 result of part of that -- this is a result of the part that
16 Mr. Yacker played in defrauding us in the purchase of a house
17 in Long Branch in 1995. However, the greater crime that may
18 never be remedied in this life is the fact that my wife died
19 in 1996, believing that she was at fault for the financially
20 embarrassed predicament and complex set of circumstances in
21 which we found ourselves.

22 While I am not qualified to understand all of the
23 nuances of this criminal case, it is my desire as a victim of
24 Mr. Yacker's crimes that he receive a sentence from this
25 Court that is commensurate with his crimes and the U.S.

1 Sentencing Guidelines. It is also my desire that in the full
2 interest of justice, that Mr. Yacker's sentence should
3 reflect an appropriate dispensation of punishment that
4 reflects the legal consequences that stem from his own
5 acknowledgement of his guilt for all of the charges that were
6 brought against him.

7 In finality, I am truly grateful to the U.S.
8 Attorney's office in Newark and all of the agencies of law
9 enforcement that include by name Larry Willis, Special Agent,
10 Tom Joseph, and the Assistant United States Attorney, Alain
11 Leibman, for the enforcement of law, and that which is
12 brought us thus far in this case.

13 Furthermore I am asking this Court to be just as
14 vigilant and prudent in insuring that the many man hours and
15 resources that have been expended to date in the interest of
16 justice are not lost, but are reflected in the annals of
17 history in what can be considered as a just outcome to this
18 case. Thank you.

19 THE COURT: All right. Thank you, Mr. Donald.

20 The government has made an application to the Court
21 pursuant to Sentencing Guidelines 5 (k) 1.1. And before I
22 can grant that application, I have to be satisfied that Mr.
23 Yacker has provided substantial assistance in the
24 investigation and prosecution of another or others who have
25 committed an offense. Only if I make that finding may I

1 consider a downward departure.

2 The Third Circuit Court of Appeals has in its
3 jurisprudence indicated certain findings that I must
4 consider.

5 First of all, I must evaluate the significance and
6 usefulness of Mr. Yacker's assistance, taking into
7 consideration the government's valuation of the assistance
8 rendered. To that extent, I am satisfied that Mr. Yacker was
9 useful, and was significant in assisting the government not
10 only in the proffers prior to the trial before the Court, but
11 he did in fact testify before the Court.

12 The second prong indicates that the testimony must
13 be truthful, complete, and reliable, as provided by Mr.
14 Yacker. And I did find his testimony to be truthful,
15 complete, and reliable.

16 The third prong, the Court is asked to look at the
17 nature and extent of the defendant's assistance. I am
18 satisfied that his assistance was forthcoming. There are
19 many, many documents for him to review with the government's
20 in proffer sessions and I am satisfied that he has satisfied
21 that prong.

22 The fourth prong is not relevant, and the Court
23 need not ponder all the prongs. And the fifth is the
24 timeliness of his assistance and I am satisfied that his
25 assistance was timely. Therefore, I will grant the

1 application of the government.

2 Today's proceeding calls upon the Court to exercise
3 its responsibility in the case that portrays the frailty of
4 many in our society who, when confronted with advancing
5 years, either in age or of their practice, and a potential
6 loss of income, permit the insecurity and uncertainty as to
7 their financial viability to overpower their good judgment.

8 By all accounts, Stanley Yacker, prior to his
9 involvement in these criminal proceedings, was a model
10 practitioner. He loved the law and truly cared about his
11 clients. And as indicated by the letters contained in the
12 sentencing memorandum submitted by Mr. Lustberg, many of
13 those clients became his personal friends.

14 I found it interesting that the clock in his office
15 was without hands, and that speaks volumes as to his lack of
16 concern about billable hours. The devil incarnate of current
17 legal compensation. His pro bono activities and service both
18 in and out of the profession were exemplary and merit
19 consideration.

20 I note that he was a state bar examiner for a
21 number of years, became chairman of that committee. And
22 attained a national reputation in the state bar examiners
23 organization. I believe he also served a term with his local
24 ethnics committee. So he did serve the profession. There
25 are many, many letters that indicate that he was of great

1 assistance to other practitioners, and many of the letters
2 indicated his, through his love for sports, he coached many
3 local community teams. I remember baseball was one of them.

4 In his personal life Mr. Yacker has always been
5 kind and considerate to others with great emphasis directed
6 towards his family. By all reports, he lived modestly,
7 without pretense, and as his wife stated, he would never
8 willingly hurt anyone. The numerous letters written on Mr.
9 Yacker's behalf give credence to this assessment. Yet Mr.
10 Donald, he did hurt people. People like you were hurt.
11 People who vested him with their trust and confidence. It is
12 because of his betrayal, and the unfolding course of events
13 that he stands before this Court, as Mr. Lustberg indicated
14 in his sentencing memorandum as a humbled man, in poor
15 health, and in a dire financial condition.

16 I have already determined that he is entitled to a
17 significant downward departure for his cooperation with the
18 government. Setting the measure of his punishment is
19 particularly difficult when weighed in terms of the human
20 disarray that has occurred. Anger, distrust, depression,
21 adverse credit ratings, bankruptcies, foreclosures, and
22 disgruntled family relationships will survive long after his
23 period of incarceration, has been served.

24 Consideration of these victims, and the feelings
25 expressed in their victim impact statements, and the

1 statement of Mr. Donald here today, must be respected, cannot
2 be overlooked. For the Court, this is a tragic case. The
3 unraveling of a distinguished career is painful to all
4 concerned. It is particularly distressing when it involves a
5 lawyer who by virtue of his license is vested with the mantle
6 of trust and respectability. The Court is satisfied that in
7 the past years Mr. Yacker has experienced the pain of shame.
8 A pain that will survive any punishment this Court can
9 impose.

10 While I am satisfied that you will never practice
11 law again, nor injure another client, the sentence imposed
12 today must be of such consequence that it would deter others
13 who face similar challenges in their golden years of practice
14 and lack the moral fortitude to just say no.

15 Mr. Yacker, if you will please rise.

16 Pursuant to the Sentencing Reform Act of 1984, and
17 particularly Section 5 (k) 1.1 it is the judgment of the
18 Court Mr. Yacker that you are hereby committed to the custody
19 of the Bureau of Prisons to be imprisoned for a term of 18
20 months. I am departing six levels. On each count, each of
21 counts one through ten. On docket number 01-00047, and count
22 1 of docket 02 -- 0025 to be served concurrently. For a
23 total term of 18 months.

24 Upon release from imprisonment you shall be placed
25 on supervised release for a term of three years. This term

1 consists of three years on each counts of one through ten of
2 the indictment that I mentioned and count 1 of the
3 information, all such terms to run concurrently.

4 Within 72 hours of your release from the custody of
5 the Bureau of Prisons you shall report in person to the
6 probation office in the district to which you are released.
7 You shall provide the United States probation officer full
8 disclosure of your financial records to include yearly income
9 tax returns upon request of the United States probation
10 office.

11 You will also cooperate with the probation officer
12 in the investigation of your financial dealings, and shall
13 provide truthful monthly statements of your income. You will
14 be prohibited from incurring any new credit charges or
15 opening additional lines of credit without the approval of
16 your probation officer unless you are in compliance with the
17 payment schedule through your restitution obligation, shall
18 not encumber or liquidate interests in any assets unless it
19 is in direct service of that restitution obligation or
20 otherwise has the express approval the Court.

21 Also ordered that you shall make restitution in the
22 total amount of \$787,985. The court will waive the interest.
23 Payment shall be made to U. S. Treasury and forwarded to the
24 clerk of the Court in Trenton for proportionate distribution
25 to victims who are listed in the presentence report, and I am

1 not going to enumerate all of those victims. But Mr. Donald,
2 you are listed for \$21,560.

3 The amounts ordered represent the total amounts due
4 to the victims for these losses. Your restitution obligation
5 shall not be affected by any restitution payments made by
6 other defendants in this case except that no further payment
7 shall be required after the sums of the amounts actually paid
8 by all defendants has fully satisfied these losses.

9 The following defendants in the following cases may
10 be subject to restitution orders to the same victims for the
11 same losses. They being Irene DeFeo and Donna Pepsney. The
12 restitution is due immediately. It is recommended that you
13 participate in the Bureau of Prisons inmate financial
14 responsibility program.

15 In the event your restitution is not paid prior to
16 the commencement of supervision you shall satisfy the amount
17 due in monthly installments of no less than \$350 to commence
18 30 days after your release from confinement.

19 You will also notify the United States Attorney for
20 this district within 30 days of any change of mailing or
21 residence address that occurs while any portion of the
22 restitution remains unpaid.

23 I find that you do not have the ability to pay a
24 fine. I will waive the fine in this case. Further ordered
25 that you shall pay to the United States a total special

1 assessment of \$100 per count for a total of \$1100 which shall
2 be due immediately.

3 I want to advise you that you have a right to
4 appeal this sentence pursuant to 18 United States Code
5 section 3742, and Mr. Lustberg will advise you of your
6 appellate rights.

7 Are there any other applications before I determine
8 whether there will be voluntary surrender?

9 MR. LUSTBERG: No, your Honor. I was going to
10 request voluntary surrender. I was also going to request
11 that the Court recommend, understanding that your Honor has
12 no ability to force, with the bureau of prisons, that Mr.
13 Yacker serve his sentence at Allenwood.

14 THE COURT: Mr. Leibman.

15 MR. LEIBMAN: No objection to the voluntary
16 surrender or the request for Allenwood.

17 THE COURT: I will grant both applications. I
18 would like the surrender to be accomplished within six weeks.
19 Anything else?

20 MR. LUSTBERG: We are happy to surrender sooner
21 than six weeks.

22 THE COURT: Well.

23 MR. LUSTBERG: I know it takes the Bureau of
24 prisons some time.

25 THE COURT: Takes about six weeks. All right.

1 That completes the sentence of the Court.

2 MR. LEIBMAN: Thank you very much, your Honor.

3 THE COURT: Okay.

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